

STATE OF ILLINOIS
ILLINOIS COMMERCE COMMISSION

Illinois Commerce Commission)	
On Its Own Motion)	
)	
Investigation concerning)	01-0662
Illinois Bell Telephone Company's)	
compliance with Section 271 of the)	Phase 2
Telecommunications Act of 1996)	

PROPOSED CHANGES OF CIMCO COMMUNICATIONS, INC.
AND FORTE COMMUNICATIONS, INC. TO THE ADMINISTRATIVE LAW JUDGE'S
PROPOSED ORDER

CHECKLIST ITEM 2 – OSS

I. THE PROPOSED ORDER IMPROPERLY IGNORES AND DISCOUNTS CLEC EVIDENCE OF DEFICIENCIES IN SBC'S OSS TO PRESENT A ONE-SIDED PICTURE OF SBC'S OSS.

A. Invalid Rejects

Forte and CIMCO propose the following changes to the Proposed Order to be adopted in the Commission's Final Order in this proceeding:

The Minor Disputes:

1307. In SBC witness Mr. Cottrell's Rebuttal Affidavit, SBC reports that the one outstanding finding by BearingPoint associated with the editing of CLEC orders will be addressed by March 15, 2003. That finding, associated with line sharing, does not address the issue discussed by CIMCO and Forte. The existence of one problem encountered by BearingPoint does not disprove the fact that other problems may very well exist. Here, Forte provided data that showed 328 invalid SBC rejects for "TN Invalid or Unavailable" – an invalid reject rate of five percent.¹ Forte later updated its data to document 14 invalid rejects for

¹ See Forte 1.0 at page 2. Within its Reply Affidavit, Forte updated its data for February of 2003.

“TN invalid or unavailable” during February of 2003. Forte was told in May of 2002 that this problem had been fixed, but Forte has received invalid rejects for “TN invalid or unavailable” every month since. Mr. Cottrell’s Surrebuttal Affidavit acknowledges that SBC’s “fix” has not solved the problem and SBC “is investigating what appears to be another problem that is generating this error message.”² Viewed in this context, the CLEC complaints about order rejection take on minor significance. This ongoing issue – for just one type of invalid reject – shows that SBC has been unable to resolve individual CLEC problems, when raised with the Company, are quickly resolved through normal business channels. This type of action is to be condoned.

CIMCO’s data, in conjunction with data provided by Forte, demonstrates that SBC’s OSS does not have adequate ordering capability. Approximately nine percent of the time SBC invalidly rejects a CIMCO order that should be able to proceed through SBC’s systems. The fact that a CLEC order is eventually accepted is not good enough. SBC’s inability to process orders correctly diminishes CLECs’ ability to adequately serve customers and thus effectively compete with SBC. SBC has not demonstrated compliance with respect to its obligation to provide nondiscriminatory OSS.

B. Invalid USOCs / Invalid Prices

Forte proposes the following changes to the ALJ’s Proposed Order to be adopted in the Commission’s Final Order in this proceeding:

1320. The Commission notes, at the outset, that all aspects of SBC Illinois’ billing systems were thoroughly reviewed by BearingPoint and virtually all of the billing tests have been resolved satisfactorily. Given that the BearingPoint Master Test Plan was adopted by this very Commission, with input from Staff and the CLECs, and that the BearingPoint test process was heavily monitored by those same parties, the Commission undoubtedly and reasonably attaches substantial weight to the positive overall BearingPoint results. These results, in our view, support a positive overall Section 271 conclusion with respect to billing. Beyond BearingPoint’s review of SBC’s billing systems, Other evidence and concerns appear of record, however, and must be considered by the Commission in determining whether further improvements need to be made to SBC’s billing systems in these premises.

² Cottrell Surrebuttal Affidavit at ¶35.

1321. With respect to billing accuracy, the majority of the issues appear to be related to UNE-P billing and involve rate changes ordered by the Commission in Docket Nos. 00-0700 and 98-0393. SBC Illinois concedes that errors were made but explains that they were limited in scope and resulted to a large degree from confusion over whether CLECs were taking service under contract or tariff. ~~While the Commission accepts these explanations, we remain concerned.~~
1322. The Commission firmly believes that any billing errors associated with the UNE-P must be corrected. We see that SBC Illinois already has committed to do so. As we understand it, the affected CLECs' billing tables have already been changed where appropriate and the credit process will be handled on a CLEC-by-CLEC basis. SBC Illinois' actions in this regard are appropriate and we hereby direct the Company to report back to the Commission when the current billing situation has been rectified, both with respect to updating CLEC billing tables to ensure that charges are correct on a going forward basis, and to its issuance of credits for past errors.
1323. ~~Information provided by SBC Illinois indicates that the UNE-P related billing errors had resulted from human error and do not reflect any systemic problems inherent in SBC Illinois' billing systems. We accept this showing but nevertheless believe that SBC Illinois needs to improve the "contract management processes" associated with updating rate tables in interconnection agreements to cover the events where this Commission orders changes to SBC Illinois' UNE rates.~~
1324. ~~In this regard too, the Commission would agree with SBC Illinois that CLECs should not assume that any Commission-ordered rate changes will flow through automatically to the rates in an interconnection agreement. To be sure, the effect of a Commission order is near certain to vary CLEC by CLEC, depending on the specific terms of each individual agreement. Based on the circumstances indicated in the record of this proceeding, CLECs might need to be more diligent in reviewing their interconnection agreements to determine whether further action is required, or permitted, to update UNE rates in their contracts. Effective communication resolves problems but it requires at least two willing participants.~~
1325. We note SBC Illinois to outline a "five step" program by which it proposes to improve its "contract management process" on a going forward basis relative to these billing issues. ~~Our review indicates that these steps are appropriate and will have the effect of substantially reducing the potential for errors on a going forward~~

~~basis. The Commission is led to understand that certain of these steps require affirmative action by the CLECs as well. As such, the Commission strongly encourages CLECs with older agreements (particularly ones from the 1997-98 time frame) to take advantage of the process outlined by SBC Illinois, i.e., to update their agreements and eliminate gaps that have contributed to these billing issues. Important to this Commission also, is SBC Illinois' offer to file reports on a bi-monthly basis and we hereby direct the Company to outline the progress made to implement these process improvements accordingly.~~

C. Invalid Formatting of Telephone Numbers (TNs)

The Proposed Order did not directly address the issue of invalidly formatted TNs. To the extent that the ALJ intended the invalidly formatted TN issue to be subsumed by paragraph 1311 of the Proposed Order, Forte takes exception to that conclusion and proposes alternate language. Forte proposes the following changes to the Proposed Order to be adopted in the Commission's Final Order in this proceeding:

Initially, SBC claims that invalidly formatted TNs are human error and are not relevant to SBC's OSS. That assumption is invalid. The real question is why SBC's OSS requires a manual input from one system to another. While SBC acknowledged the problem, it further asserted that BearingPoint Observation 700 addressed it and in fact solved the problem. Forte's data from the time of SBC's alleged "fix" to the middle of March proves that SBC's problem has not been fixed. The bottom line is that SBC's OSS should be able to provide correctly formatted TNs to wholesale customers. The fact that SBC's OSS is unable to provide correctly formatted TNs is further evidence that SBC's OSS does not provide CLECs the opportunity to compete on a level playing field with SBC.

D. Order Completions

To the extent the ALJ intended CIMCO's order completion issue to be subsumed by paragraph 1311 of the ALJ's Proposed Order, CIMCO takes exception to that

conclusion and proposes alternate language. CIMCO proposes the following changes to the ALJ's Proposed Order to be adopted in the Commission's Final Order in this proceeding:

~~1308. To the extent that CIMCO and Forte suggest the lack of a certain performance measure that they appear to want, we direct their attention to the well established forum, i.e., the continuing 6 month collaboratives, where this issue can be raised and considered. Here too, we see that Although~~ BearingPoints testing in this matter, yielded positive results for the *timeliness* of SBC's order completion confirmation, CIMCO noted that timeliness is not the only measure of a CLEC's ability to compete with respect to completion notices. In fact, a measure of timeliness is of little use if SBC's order completion notice is processed incorrectly. CIMCO specifically discussed deficiencies in SBC's OSS regarding SBC's improper processing of Primary Inter-exchange Carrier ("PIC") change requests. CIMCO further developed the discussion by providing examples of SBC's processing errors. SBC's only response was to point to a BearingPoint conclusion that SBC accurately provisioned switch features. SBC's observation, however, does not confirm whether SBC correctly processes PIC change requests. Before the Commission can determine this issue, SBC must show that it's OSS correctly provisions PIC change requests.

E. Working Service Conflicts

The Proposed Order did not directly address the working service conflict issue. To the extent the ALJ intended Forte's working service conflict issue to be subsumed by paragraph 1311 of the ALJ's Proposed Order, Forte takes exception to that conclusion and proposes alternate language. Forte proposes the following changes to the ALJ's Proposed Order to be adopted in the Commission's Final Order in this proceeding:

It appears as if the working service conflict, as it pertains to Forte, has been addressed by SBC. It is, however, too early to determine whether the "fix" that SBC has proposed will in fact solve the problem. Forte and SBC agreed to monitor the problem until the next CLEC User Forum. The Commission will not decide this issue until it is clear that the problem has been solved.

F. Invalid Completion Notices

The Proposed Order did not directly address the invalid completion notice issue. To the extent the ALJ intended Forte's invalid completion notice issue to be subsumed by paragraph 1311 of the Proposed Order, Forte takes exception to that conclusion and proposes alternate language. Forte proposes the following changes to the Proposed Order to be adopted in the Commission's Final Order in this proceeding:

The Commission first notes that Forte documented that approximately 9 percent of the time, SBC issues an invalid completion notice for orders. Forte further demonstrated the added costs that result from SBC's error. SBC witness Mr. Muhs does not dispute these facts. However, Mr. Muhs points the Commission to PM 35 and its parity standard between wholesale and retail. Here, however, a parity standard does not measure whether Forte has an opportunity to compete because a fix to the problem requires much more for wholesale customers as compared to resale customers. The relatively simple fix for retail customers is simply not the case for wholesale customers. For example, Forte detailed the added time and cost and further explained that it does not have access to place tone on the line from the central office, as SBC is able to do when looking for a specific cable and pair. The Commission therefore requires SBC to develop the necessary improvements to its OSS in order to reduce the current high frequency of invalid completion notices.

G. Additional changes to the ALJ's Proposed Order

The Proposed Order concludes that the data evidence presented by Forte and CIMCO consists largely of "minor disputes". The record evidence demonstrates the ALJ's assertion is incorrect. Forte documented the combined SBC order failure rate for new loop orders due to invalid rejects, invalid completion notices, and invalid formatting of telephone numbers to be approximately one quarter of Forte's submitted orders. That is, approximately twenty-five percent of Forte's new orders have failed due to SBC's OSS for one of those reasons. This is hardly a *de minimus* impact and the Proposed Order is in error for making such an unsupported conclusion.

Forte proposes the following changes to the Proposed Order:

~~1309. Further, we are informed, BearingPoint used the SBC Illinois service centers of which CIMCO and Forte also complain, and it experienced no problems.~~

~~1311. While still other problems were raised on record, e.g., post to bill notices, we are satisfied that the Company has taken prompt and aggressive actions to identify and fix them with minimal impact to the CLEC. We see no reason but to expect such activity to continue. In short, none of the issues raised by the CLECs demonstrate any defects with the Company's OSS.~~

II. THE PROPOSED ORDER'S ADOPTION OF SBC'S COMPROMISE PLAN ELIMINATES INCENTIVES FOR SBC TO PROVIDE CLECs WITH SERVICE THAT IS COMPARABLE TO THAT PROVIDED TO ITS OWN CUSTOMERS AND AFFILIATES.

CIMCO and Forte propose the following changes to be inserted in place of the Remedy Plan discussion at ¶¶3428-3501 of the ALJ's Proposed Order:

The remedy plan adopted by the Commission must insure that SBC will not backslide if SBC sufficiently improves its OSS to warrant a positive recommendation from the ICC. The Commission thoroughly addressed the remedy plan as part of docket 01-0120. That plan created rights for CLECs and obligations by SBC that cannot be discarded with little evidence and no time to evaluate that evidence, simply because SBC claims that the 01-0120 plan is more stringent than other BOC Section 271 remedy plans. Based on the evidence carefully considered in 01-0120, the Commission developed the remedy plan necessary to provide incentive for SBC to improve its wholesale service quality. The Commission concludes that in conjunction with the required OSS improvements ordered herein, SBC must abide by the remedy plan adopted in docket 01-0120 before this commission will provide a positive recommendation to the FCC regarding Section 271 compliance.

Conclusion

CIMCO and Forte respectfully request that the Commission adopt the proposed changes to the ALJ's Proposed Order as part of the Final Order in this proceeding.

Respectfully submitted,

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